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CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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FINAL NOTICES

The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its July 12, 2011 meeting, held at the San Diego County Administration Center, 1600 Pacific Highway, Room 302/303, San Diego, CA 92101. Minutes of the open session portion of this meeting will be available following the Review Board's review and adoption of the minutes at its next meeting. Meeting agendas, minutes, and other information about the Review Board are available upon request or at www.sdcounty.ca.gov/clerb.

CLOSED SESSION

- a) **Discussion & Consideration of Complaints & Reports:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session).

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

CASES FOR SUMMARY HEARING (6)

ALLEGATIONS, FINDINGS & RATIONALE

10-029

- Death Investigation / Officer Involved Shooting – Deputies 1 and 2 shot and killed Robert Clifford Reed.

Board Finding: Action Justified

Rationale: Deputies 1 and 2 responded in less than two minutes to an assault with a deadly weapon, with shots fired. They were subsequently confronted by Reed who was armed with two guns and had just fatally wounded two of his neighbors. Both deputies fired repeatedly after Reed ignored the command of "Don't move" and instead raised a firearm toward them. The actions taken by the deputies were necessary and legally justified. No complaint of misconduct was received in this case.

10-046

- False Arrest – Deputy 3 arrested the complainant for discharging a firearm, driving under the influence, and resisting arrest.

Board Finding: Action Justified

Rationale: Deputy 3 was dispatched to a report of shots fired. Subsequent investigation revealed that the complainant had discharged a firearm, was observed colliding with a pole and a neighbor's vehicle while parking his car, and resisted arrest. The conduct did occur but was lawful, justified, and proper.

2. Excessive Force – Deputy 4 beat the complainant resulting in injuries to include a broken arm.

Board Finding: Action Justified

Rationale: Deputy 4 took the complainant into custody and while he was escorted to a patrol vehicle the complainant kicked at the deputy, causing both to fall to the ground. The complainant continued the aggressive and assaultive behavior as he attempted to kick and head-butt the deputy. During a pat down search the complainant struck Deputy 4 in the mouth with his head. Deputy 4 used reasonable force to effect arrest and get the complainant to submit to custody. Independent witnesses corroborated Deputy 4's account of the contact. The evidence shows that the alleged act or conduct did occur, but was lawful, justified, and proper.

3. Misconduct/Procedure – Deputies 1, 2, 3, 5, and 6 watched as Deputy 4 beat the complainant.

Board Finding: Unfounded

Rationale: Deputies 1 and 3 were conducting a security sweep of the complainant's residence when the altercation took place and responded only after Deputy 4 requested assistance. Deputies 2, 5, and 6 arrived on scene after Deputy 4 had regained control of the complainant and he was seated in the patrol vehicle. Independent witnesses acknowledged that no deputies were present when the altercation took place. The evidence shows that the alleged act or conduct did not occur.

4. Misconduct/Procedure – Deputies 1, 2, 3, 4, and 6 failed to place the complainant under arrest and/or read him his rights.

Board Finding: Action Justified

Rationale: Deputy 4 advised the complainant that he was under arrest as he was escorted to the patrol vehicle. Deputies 1, 2, 3, 4, and 6 denied asking the complainant any questions relating to the events. An on-call detective responded to the scene and later attempted to talk with the complainant at the Sheriff's Station. The complainant invoked his right to an attorney and stated he did not want to speak with detectives. The evidence demonstrates that the complainant was advised he was under arrest, was not questioned about events until detectives arrived at which time he invoked his Miranda rights. The conduct did occur, but was lawful, justified, and proper.

5. Misconduct/Procedure – Deputies 3 and 6 denied the complainant the right to choose and performed a forced blood draw against the complainant's wishes.

Board Finding: Not Sustained

Rationale: Deputy 3, the arresting officer, requested a blood technician but was not present during the blood draw. Deputy 6 witnessed the blood draw conducted by the blood technician. Deputies 3 and 6 do not recall asking if the complainant would provide a voluntary sample. The complainant acknowledged he initially declined a blood draw but conceded after he was advised that force could be used to take a sample if necessary. There is insufficient evidence to either prove or disprove the allegation.

6. Misconduct/Harassment – Deputy 4 pulled the complainant over two weeks after his arrest for a faulty taillight which the complainant disputes.

Board Finding: Not Sustained

Rationale: Deputy 4 observed the complainant's vehicle, proceeded to fall in behind the complainant, noted that the brake lights were not operating properly, and conducted a traffic stop. Deputy 4 had reasonable cause to conduct the traffic stop, and after the complainant provided Deputy 4 with necessary documentation he was issued a vehicle code violation warning and released. The evidence shows that the alleged act or conduct did occur, but was lawful, justified, and proper.

10-050

1. Misconduct/Procedure – Deputy 1 detained the complainant in a courthouse stairwell after she repeatedly told him “I don’t feel safe in here alone with you.”

Board Finding: Action Justified

Rationale: The complainant identified a courier to Deputy 2 as someone who had allegedly threatened her previous to this incident at the courthouse. Deputies 1 and 2 attempted to interview the involved parties separately, as per standard practices of investigation. Specifics supplied by the complainant and Deputy 1 vary in their context, but the complainant was never detained by Deputy 1. After the complainant relayed that she was scared and/or wanted to leave, Deputy 1 ended his attempts at an interview, which were only prompted by the complainant’s request for assistance. The evidence shows the deputies’ conduct was lawful, justified and proper.

2. Misconduct/Discourtesy – Deputy 1 told the complainant and other individuals she was “crazy and psycho.”

Board Finding: Not Sustained

Rationale: Deputy 1 said it was not he, but the courier who used the word “crazy” in describing the complainant. Deputy 2 confirmed he never heard Deputy 1 use the indicated language. Admittedly, Deputy 1 had concerns for the complainant’s mental health and suggested she should seek treatment for psychological issues. There was insufficient evidence to either prove or disprove this allegation.

10-051

1. Misconduct/Procedure – Deputies 1, 2, and 3 performed a “hot stop” with weapons drawn on the complainant for “going up to 70 mph.”

Board Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers’ Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. False Arrest – Deputies 1, 2, and 3 arrested the disabled complainant for DUI.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Illegal Search & Seizure - Deputies 1 and 2 performed a search of the complainant’s vehicle and trunk without permission.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Procedure – Deputy 4 used the complainant’s cell phone to make a call and then confiscated the phone.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Misconduct/Medical – Deputy 4 denied the complainant prescribed medication resulting in pain, while he was incarcerated.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

6. Misconduct/Procedure – Deputy 4 impounded the complainant’s vehicle just “to be cruel.”

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

7. Misconduct/Discourtesy - Deputies 1 or 3 laughingly said, “Don’t worry he’s got AAA” in reference to impoundment of the complainant’s vehicle.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

8. Misconduct/Procedure – Deputy 4 failed to provide the complainant with the results of his blood/alcohol content and/or breathalyzer.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

9. Misconduct/Procedure – Deputy 4 held the complainant at the jail during a scheduled court appearance subsequently resulting in an arrest warrant.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

10. Discrimination/Other – Deputies 1 and 3, who are white, “disrespected” the complainant who is a “disabled” (black) veteran.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

10-055

1. Misconduct/Procedure – Deputy 2 prohibited the complainant from taking prescribed medications while at the courthouse.

Board Finding: Action Justified

Rationale: Deputy 2 stopped the complainant from taking medications from an unmarked prescription-type medicine bottle because she appeared to be under the influence of medication and would not provide the name of a physician or physicians to verify the prescriptions. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

2. False Arrest – Deputy 2 while “angry and with malice,” arrested the complainant.

Board Finding: Action Justified

Rationale: Deputy 2 took the complainant into custody because she displayed several controlled substance-type medications and refused to provide deputies with a means to confirm that she held the medication legally. The complainant became loud, argumentative, refused the directions of deputies, and was subsequently arrested by Deputy 2. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

3. Misconduct/Procedure – Deputy 2 failed to read the complainant her Miranda rights.

Board Finding: Action Justified

Rationale: Deputy 2 did not read the complainant her Miranda rights. The complainant was uncooperative and agitated, as well as being considered under the influence. Because of the complainant's behavior and the nature of the arrest Deputy 2 did not intend to or conduct an interrogation, therefore it was not necessary to read the complainant her Miranda rights. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

4. Misconduct/Procedure – Deputy 2 failed to advise the complainant of her charges.

Board Finding: Unfounded

Rationale: Deputy 2 advised the complainant that she was being charged with having medications in her position without proper prescription requirements or proper containers, and being under the influence of medication. There were no independent witnesses to this interaction and therefore there is insufficient evidence to prove or disprove this allegation.

5. Excessive Force – Deputy 2 handcuffed the complainant and placed her into leg shackles.

Board Finding: Action Justified

Rationale: Deputy 2 placed handcuffs on the complainant when she taken into custody because of her uncooperative behavior. While in the holding area the complainant complained of lower back pain and Deputy 2 switched the handcuffs for waist chains. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

6. False Reporting – Deputy 2 falsely reported to medical personnel that the complainant had attempted to overdose on prescribed medications.

Board Finding: Unfounded

Rationale: Deputy 2 denied making any such report to medical personnel. There were no independent witnesses to this interaction and therefore there is insufficient evidence to prove or disprove this allegation.

7. Misconduct/Procedure – Deputy 1 promised the complainant a phone call and bail option that did not occur.

Board Finding: Action Justified

Rationale: Deputy 1 advised the complainant that she would be able to make a phone call and have bail options explained after she completed the booking process at Las Colinas Detention Facility. Due to her Safety Cell placement she was unable to use the phone or complete the booking process. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

8. Misconduct/Procedure – Deputy 3 placed the complainant into a “cold, unsanitary ant-infested rubber room.”

Board Finding: Summary Dismissal

Rationale: The complainant was placed in a Safety Cell upon arrival at Las Colinas Detention Facility based the recommendation of County Mental Health authorities. Medical Staff re-evaluated the complainant in accordance with facility regulations and Board that she remain in the Safety Cell. Sheriff's Department personnel attempted to relocate the complainant on two occasions for daily cleaning of the cell, but the complainant refused to move; on each occasion the Safety Cell was observed to be clean with no food, urine, or feces present. The Review Board lacks jurisdiction over medical personnel and the complainant was referred to San Diego Sheriff Internal Affairs.

9. Criminal Conduct – Deputy 3 kicked, taunted, and sexually assaulted the complainant.

Board Finding: Not Sustained

Rationale: None of the Sheriff Staff questioned about this case acknowledge that the complainant, or any inmate, had been taunted and sexually assaulted. The Watch Commander's logs for the period of confinement did not reveal any incidents or allegations of taunting or sexual assault generated by the complainant or any other inmates in the facility, during her period of incarceration. No such grievances or complaints were filed against Sheriff Staff. The evidence shows that the alleged act or conduct did not occur.

11-048

1. Misconduct/Procedure – The Sheriff's Department refused to assist the complainant with a TRO.

Board Finding: Summary Dismissal

Rationale: On April 27, 2011, the complainant submitted a signed complaint concerning incidents that occurred in 2009. The Review Board does not have jurisdiction to take any action in respect to complaints received more than one year after the date of the incident giving rise to the complaint. CLERB does not have authority to investigate this complaint based upon CLERB Rules & Regulations, 4.4 Citizen Complaints: Jurisdiction.

2. Misconduct/Procedure – Deputy 2 threw the complainant's possessions into the street.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Procedure – Deputy 3 did not help the complainant retrieve her prescription eyeglasses.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Procedure – Deputy 1 refused to take action on the complainant's correspondence.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Misconduct/Procedure – Deputy 3 revealed the complainant's contact information to Deputy 2.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

6. Criminal Conduct – Deputy 2 located the complainant and has made repeated attempts on her life.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

7. Misconduct/Procedure – The Sheriff's Department has repeatedly refused to protect the complainant.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.